



AMERICAN VETERINARY MEDICAL ASSOCIATION

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SEP 2 2003

Federal Communications Commission
Office of the Secretary

August 1, 2003

Leslie Smith
Federal Communications Commission
Room I-804
445 12th Street SW
Washington, D C. 20554

SEP 03 2003

Distribution Center

Re: Proceeding CG-02-278, FCC 03-153

Dear Mr. Smith:

I am writing to express the concerns and objections of the American Veterinary Medical Association about the recent actions taken by the FCC to amend the regulations that implement the Telephone Consumer Protection Act of 1991 (TCPA)

The FCC has decided, without proper input from the business and association community, to modify the current law by doing away with the "established business relationship" provision pertaining to fax advertisements. This amendment will place onerous administrative and economic burdens on associations by requiring "expressed written consent" from themselves, including each of their own members, prior to sending a fax advertisement. I hope you share in my concern over this onerous restriction of legitimate intra-association activity.

Membership associations comprise the members, who voluntarily join the association to participate in the collective activities of the association and to avail themselves of the benefits and services that are provided to them by the group, under the guidance of their elected leaders. Restricting their ability to communicate among themselves by telephone, facsimile, postal mail, e-mail or other media inhibits members' ability to enjoy the services, benefits, and privileges that they sought and desire in their membership in the association, whether those benefits are or are not subject to additional fees.

In fact, the language contained in the Federal Register notice of the FCC ruling would even prevent members from being reminded, by facsimile, of the appropriate action and dues amounts necessary to maintain the membership that they sought and desire. It would also prevent the members of professional associations from being notified by facsimile of the availability of professional continuing education programs and the costs thereof, that are among the primary and most sought after benefits and services afforded with professional association membership.

Such prohibition is a travesty. It acts to prevent or impede intra-association communication among volunteer participants in a legally organized group, and it impedes freedom of speech and interaction among components of the association --its members. Members of such associations join the association and annually renew their memberships through the payment of dues in order to have access to the information that this FCC rule would prevent their receiving by facsimile.

We are not talking about unsolicited and unwanted advertisements from outside commercial firms, but about intraorganizational communication among components of the association. Neither are we dealing with an intermittent "established business relationship." With associations, especially professional associations, we are dealing with voluntary societies of persons who have chosen to join with their

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colleagues to pursue their common goals through common effort and should be free to communicate among themselves using the media of their choice without external interference

The FCC should incorporate into the new rule a provision that specifically excludes tax-exempt, not-for-profit membership associations that use facsimile machines for intra-societal communications to share with their members information and opportunities that are related to their purpose.

As presently written, the new FCC reading of the TCPA prohibits any person or entity from sending any fax that contains an unsolicited "advertisement," which is defined as "any material advertising the commercial availability or quality of any property, good, or services which is transmitted to any person without that person's prior express invitation or permission." As a result of the new FCC rules, associations are faced with challenging and expensive administrative, legal, economic, and record keeping ramifications to be able to conduct intra-societal communication among their members.

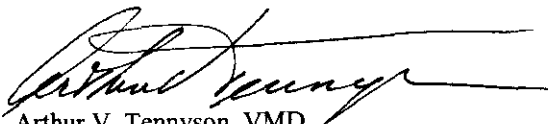
The proposed changes, which are scheduled to go into effect on August 25, 2003 - 30 days after they were published in the Federal Register on July 25, 2003, will create an unnecessary, significant, labor-intensive, economic burden for associations. Members and other component entities of the association would be required to acquire and maintain signed written consents to allow fax communication with each other on intra-association activities, events, continuing education programs, membership renewals, etc.

While these changes may be suitable for commercial advertising, they are unacceptable for intra-association facsimile communications. Associations rely on faxes as a prime source of timely communication and marketing of their services and benefits to meet their members' needs and desires.

With penalties reaching \$11,000 per unauthorized fax, the new rules are extremely onerous as they pertain to intra-association communications and create a burden that few associations can financially endure.

The AVMA urges the FCC to reconsider its new rules regarding facsimile communications and to rewrite them to except from those rules the internal communications within not-for-profit membership associations that pertain to the purpose and mission of the association

Sincerely,



Arthur V. Tennyson, VMD
Assistant Executive Vice President